

§ 143B-437.72. Agreements required; disbursement of funds.

(a) **Agreements Required.** – Funds may be disbursed from the One North Carolina Fund only in accordance with agreements entered into between the State and one or more local governments and between the local government and a grantee business.

(b) **Company Performance Agreements.** – An agreement between a local government and a grantee business must contain the following provisions:

- (1) A commitment to create or retain a specified number of jobs within a specified salary range at a specific location and commitments regarding the time period in which the jobs will be created or retained and the minimum time period for which the jobs must be maintained.
- (2) A commitment to provide proof satisfactory to the local government and the State of new jobs created or existing jobs retained and the salary level of those jobs.
- (3) A provision that funds received under the agreement may be used only for a purpose specified in G.S. 143B-437.71(b).
- (4) A provision allowing the State or the local government to inspect all records of the business that may be used to confirm compliance with the agreement or with the requirements of this Part.
- (5) A provision establishing the method for determining compliance with the agreement.
- (6) A provision establishing a schedule for disbursement of funds under the agreement that allows disbursement of funds only in proportion to the amount of performance completed under the agreement.
- (6a) A provision establishing that a business that has completed performance and become entitled to a final disbursement of funds under the agreement must timely request, in writing to the Secretary of Commerce, a disbursement of funds within not more than one year from the date of completed performance or forfeit the disbursement.
- (6b) A provision establishing that a business that anticipates becoming entitled to a disbursement of funds under the agreement shall notify the Secretary of Commerce of the potential payment no later than March 1 of the fiscal year preceding the fiscal year in which the performance is anticipated to be completed.
- (7) A provision requiring recapture of grant funds if a business subsequently fails to comply with the terms of the agreement.
- (8) Any other provision the State or the local government finds necessary to ensure the proper use of State or local funds.

(c) **Local Government Grant Agreement.** – An agreement between the State and one or more local governments shall contain the following provisions:

- (1) A commitment on the part of the local government to match the funds allocated by the State, as provided in this subdivision. A local match may include cash, fee waivers, in-kind services, the donation of assets, the provision of infrastructure, or a combination of these.
 - a. For a local government in a development tier one area, as defined in G.S. 143B-437.08, the State shall provide no more than three dollars (\$3.00) for every one dollar (\$1.00) provided by the local government.
 - b. For a local government in a development tier two area, as defined in G.S. 143B-437.08, the State shall provide no more than two dollars

(\$2.00) for every one dollar (\$1.00) provided by the local government.

c. For a local government in a development tier three area, as defined in G.S. 143B-437.08, the State shall provide no more than one dollar (\$1.00) for every one dollar (\$1.00) provided by the local government.

- (2) A provision requiring the local government to recapture any funds to which the local government is entitled under the company performance agreement.
- (3) A provision requiring the local government to reimburse the State for any funds improperly disbursed or funds recaptured by the local government.
- (4) A provision allowing the State access to all records possessed by the local government necessary to ensure compliance with the company performance agreement and with the requirements of this Part.
- (5) A provision establishing a schedule for the disbursement of funds from the One North Carolina Fund to the local government that reflects the disbursement schedule established in the company performance agreement.
- (6) Any other provision the State finds necessary to ensure the proper use of State funds.

(d) Disbursement of Funds. – Funds may be disbursed from the One North Carolina Fund to the local government only after the local government has demonstrated that the business has complied with the terms of the company performance agreement. The State shall disburse funds allocated under the One North Carolina Fund to a local government in accordance with the disbursement schedule established in the local government grant agreement. (2004-88, s. 1(d); 2012-142, s. 13.6(c); 2015-259, s. 2(a).)